

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

TEXAS STATE LULAC; VOTO LATINO

Plaintiffs,

v.

BRUCE ELFANT, in his official capacity as the Travis County Tax Assessor-Collector; JACQUELYN CALLANEN, in her official capacity as the Bexar County Elections Administrator; ISABEL LONGORIA, in her official capacity as the Harris County Elections Administrator; YVONNE RAMON, in her official capacity as the Hidalgo County Elections Administrator; MICHAEL SCARPELLO, in his official capacity as the Dallas County Elections Administrator; and LISA WISE, in her official capacity as El Paso County Elections Administrator,

Defendants,

and

KEN PAXTON, in his official capacity as Attorney General of Texas; LUPE C. TORRES, in his official capacity as Medina County Elections Administrator; and TERRIE PENDLEY, in her official capacity as Real County Tax Assessor-Collector,

Intervenor-Defendants.

Case No. Case No. 1:21-cv-00546-LY

AMENDED NOTICE OF APPEAL

The district court entered final judgment in this matter on August 2, 2022, which granted in part and denied in part the parties' cross-motions for summary judgment. [ECF No. 171–72]. Intervenor-Defendants Ken Paxton, Lupe C. Torres, and Terrie Pendley, each in their official capacity, filed a timely notice of appeal two days later [ECF No. 173] and successfully obtained

from the Fifth Circuit an administrative stay of the district court's ruling. This filing of a notice of appeal had the effect of vesting jurisdiction in Fifth Circuit and divesting the district court of jurisdiction except for certain, limited matters—jurisdiction that the Fifth Circuit exercised when it issued the stay. *See Clower v. Wells Fargo Bank, N.A.*, 381 F. App'x 450, 451 (5th Cir. 2010) (per curiam). However, in the weeks following Intervenor-Defendants' notice of appeal, three County Defendants filed in the district court a document styled a Motion for Reconsideration And/Or Clarification of the Court's August 2, 2022, Order and Judgment, which the district court has since granted. Although the County Defendants' motion did not deprive the Fifth Circuit of jurisdiction that already vested, a Rule 59 motion, in different circumstances, can suspend or render dormant a notice of appeal. Thus, out of an abundance of caution, Intervenor Defendants resubmit their notice of appeal to the United States Court of Appeals for the Fifth Circuit from the district court's order and final judgment, pursuant to Federal Rules of Appellate Procedure 3(a)(1) and 4(a)(1)(A).

Dated: September 23, 2022

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
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Respectfully submitted.

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/s/Kathleen T. Hunker

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and Terrie Pendley*

CERTIFICATE OF SERVICE

I, Kathleen T. Hunker, hereby certify that on September 23, 2022, a true and correct copy of the within document was served on all parties via the Electronic Case Filing System.

/s/ Kathleen T. Hunker
Kathleen T. Hunker

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